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1st Session }

SENATE

{ REPORT
104-188

CACHE LA POUFRE RIVER NATIONAL WATER HERITAGE AREA ACT

DECEMBER 15, 1995.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany S. 342]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 342) to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Cache La Poudre River National Water Heritage Area Act”.

SEC. 2. PURPOSE.

The purpose of this Act is to designate the Cache La Poudre Water National Heritage Area within the Cache La Poudre River Basin and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AREA.—The term “Area” means the Cache La Poudre River National Water Heritage Area established by section 4(a).

(2) COMMISSION.—The term “Commission” means the Cache La Poudre River National Water Heritage Area Commission established by section 5(a).

(3) GOVERNOR.—The term “Governor” means the Governor of the State of Colorado.

(4) PLAN.—The term “Plan” means the water heritage area interpretation plan prepared by the Commission pursuant to section 9(a).

(5) **POLITICAL SUBDIVISIONS OF THE STATE.**—The term “political subdivision of the State” means a political subdivision of the State of Colorado, any part of which is located in or adjacent to the Area, including a county, city, town, water conservancy district, or special district.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF THE CACHE LA POUDE RIVER NATIONAL WATER HERITAGE AREA.

(a) **ESTABLISHMENT.**—There is established in the State of Colorado the Cache La Poudre River National Water Heritage Area.

(b) **BOUNDARIES.**—The boundaries of this Area shall include those lands within the 100-year flood plain of the Cache La Poudre River Basin, beginning at a point where the Cache La Poudre River flows out of the Roosevelt National Forest and continuing east along said floodplain to a point one quarter of one mile west of the confluence of the Cache La Poudre River and the South Platte Rivers in Weld County, Colorado, comprising less than 35,000 acres, and generally depicted as the 100-year flood boundary on the Federal Flood Insurance maps listed below:

(1) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0146B, April 2, 1979. U.S. Dept. of Housing and Urban Development, Federal Insurance Administration;

(2) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0147B, April 2, 1979. U.S. Dept. of Housing and Urban Development, Federal Insurance Administration;

(3) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0162B, April 2, 1979. U.S. Dept. of Housing and Urban Development, Federal Insurance Administration;

(4) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0163B, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration;

(5) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0178B, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration;

(6) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080102 0002B, February 15, 1984. Federal Emergency Management Agency, Federal Insurance Administration;

(7) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0179B, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration;

(8) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0193D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration;

(9) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0194B, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration;

(10) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0208C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration;

(11) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080101 0221C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration;

(12) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080266 0605D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration;

(13) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080264 0005A, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration;

(14) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080266 0608D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration;

(15) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080266 0609C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration;

(16) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080266 0628C, September 28, 1992. Federal Emergency Management Agency, Federal Insurance Administration;

(17) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080184 0002B, July 16, 1979. U.S. Dept. of Housing and Urban Development, Federal Insurance Administration;

(18) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080266 0636C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration; and

(19) Flood Insurance Rate Map, Larimer County, CO. Community-Panel No. 080266 0637C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries of the Area.

(c) PUBLIC ACCESS TO MAPS.—The maps shall be on file and available for public inspection in—

(1) the offices of the Department of the Interior in Washington, District of Columbia, and Denver, Colorado; and

(2) local offices of the city of Fort Collins, Larimer County, the city of Greeley, and Weld County.

SEC. 5. ESTABLISHMENT OF THE CACHE LA POUDDRE RIVER NATIONAL WATER HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Cache La Poudre River National Water Heritage Area Commission.

(2) FUNCTION.—The Commission, in consultation with appropriate Federal, State, and local authorities, shall develop and implement an integrated plan to interpret elements of the history of water development within the Area.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members appointed not later than 6 months after the date of enactment of this Act. Of these 15 members—

(A) 1 member shall be a representative of the Secretary of the Interior which member shall be an ex officio member,

(B) 1 member shall be a representative of the Forest Service, appointed by the Secretary of Agriculture, which member shall be an ex officio member;

(C) 3 members shall be recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the State;

(ii) 1 member shall represent Colorado State University in Fort Collins; and

(iii) 1 member shall represent the Northern Colorado Water Conservancy District;

(D) 6 members shall be representatives of local governments who are recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the city of Fort Collins;

(ii) 2 members shall represent Larimer County, 1 of which shall represent agriculture or irrigated water interest;

(iii) 1 member shall represent the city of Greeley;

(iv) 2 members shall represent Weld County, 1 of which shall represent agricultural or irrigated water interests; and

(v) 1 member shall represent the city of Loveland; and

(E) 3 members shall be recommended by the Governor and appointed by the Secretary, and shall—

(i) represent the general public;

(ii) be citizens of the State; and

(iii) reside within the Area.

(2) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under subparagraph (C), (D), or (E) of paragraph (1). The chairperson shall be elected for a 2-year term.

(3) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) TERMS OF SERVICE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(2) INITIAL MEMBERS.—The initial members of the Commission first appointed under subsection (b)(1) shall be appointed as follows:

(A) 3-YEAR TERMS.—The following initial members shall serve for a 3-year term:

- (i) The representative of the Secretary of the Interior.
- (ii) 1 representative of Weld County.
- (iii) 1 representative of Larimer County.
- (iv) 1 representative of the city of Loveland.
- (v) 1 representative of the general public.

(B) 2-YEAR TERMS.—The following initial members shall serve for a 2-year term:

- (i) The representative of the Forest Service.
- (ii) The representative of the State.
- (iii) The representative of Colorado State University.
- (iv) The representative of the Northern Colorado Water Conservancy District.

(C) 1-YEAR TERMS.—The following initial members shall serve for a 1-year term:

- (i) 1 representative of the city of Fort Collins.
- (ii) 1 representative of Larimer County.
- (iii) 1 representative of the city of Greeley.
- (iv) 1 representative of Weld County.
- (v) 1 representative of the general public.

(3) PARTIAL TERMS.—

(a) FILLING VACANCIES.—A member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of their term.

(B) EXTENDED SERVICE.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SEC. 6. STAFF OF THE COMMISSION.

(a) STAFF.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out the duties of the Commission.

- (1) APPOINTMENT AND COMPENSATION.—Staff appointed by the Commission—
- (i) shall be appointed without regard to the civil service laws and regulations; and
 - (ii) shall be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(c) STATE OF OTHER AGENCIES.—

(1) FEDERAL.—Upon request of the Commission, the head of a Federal agency may detail, on a reimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties. The detail shall be without interruption or loss of civil service status or privilege.

(2) ADMINISTRATIVE SUPPORT SERVICES.—Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) STATE.—The Commission may—

- (A) accept the service of personnel detailed from the State, State agencies, and political subdivisions of the State; and
- (B) reimburse the State, State agency, or political subdivision of the State for such services.

SEC. 7. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out this Act.

(2) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(b) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) MATCHING FUNDS.—The Commission may use its funds to obtain money from any source under a program or law requiring the recipient of the money to make a contribution in order to receive the money.

(d) GIFTS.—

(1) IN GENERAL.—Except as provided in subsection (e)(3), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personnel property, or services, received from any source.

(2) CHARITABLE CONTRIBUTIONS.—For the purpose of section 170(c) of the Internal Revenue Code of 1986, a gift to the Commission shall be deemed to be a gift to the United States.

(e) REAL PROPERTY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and except with respect to a leasing of facilities under section 6(c)(2), the Commission may not acquire real property or an interest in real property.

(2) EXCEPTION.—Subject to paragraph (3), the Commission may acquire real property in the Area, and interests in real property in the Area—

(A) by gift or devise;

(B) by purchase from a willing seller with money that was given or bequeathed to the Commission; or

(C) by exchange.

(3) CONVEYANCE TO PUBLIC AGENCIES.—Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate non-federal public agency, as determined by the Commission. The conveyance shall be made—

(A) as soon as practicable after acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used in furtherance of the purpose for which the Area is established.

(f) COOPERATIVE AGREEMENTS.—For the purpose of carrying out the Plan, the Commission may enter into cooperative agreements with Federal agencies, State agencies, political subdivisions of the State, and persons. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action that may affect the implementation of the Plan.

(g) ADVISORY GROUPS.—The Commission may establish such advisory groups at it consider necessary to ensure open communication with, and assistance from Federal agencies, State agencies, political subdivisions of the State, and interested persons.

(h) MODIFICATION OF PLANS.—

(1) IN GENERAL.—The Commission may modify the Plan if the Commission determines that such modification is necessary to carry out this Act.

(2) NOTICE.—No modification shall take effect until—

(A) any Federal agency, State agency, or political subdivision of the State that may be affected by the modification receives adequate notice of, and an opportunity to comment on, the modification;

(B) if the modification is significant, as determined by the Commission, the Commission has—

(i) provided adequate notice of the modification by publication in the area of the Area; and

(ii) conducted a public hearing with respect to the modification; and

(C) the Governor has approved the modification.

SEC. 8. DUTIES OF THE COMMISSION.

(a) PLAN.—The Commission shall prepare, obtain approval for, implement, and support the Plan in accordance with section 9.

(b) MEETINGS.—

(1) TIMING.—

(A) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial members is appointed.

(B) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or 7 of its members, except that the Commission shall meet at least quarterly.

(2) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(3) BUDGET.—The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(c) ANNUAL REPORTS.—Not later than May 15 of each year, following the year in which the members of the Commission have been appointed, the Commission shall publish and submit, to the Secretary and to the Governor, an annual report concerning the Commission's activities.

SEC. 9. PREPARATION, REVIEW, AND IMPLEMENTATION OF THE PLAN.

(a) PREPARATION OF PLAN.—

(1) IN GENERAL.—Not later than 2 years after the Commission conducts its first meeting, the Commission shall submit to the Governor a Water Heritage Area Interpretation Plan.

(2) DEVELOPMENT.—In developing the Plan, the Commission shall—

(A) consult on a regular basis with appropriate officials of any Federal or State agency, political subdivision of the State, and local government that has jurisdiction over or an ownership interest in land, water, or water rights within the Area; and

(B) conduct public hearings within the Area for the purpose of providing interested persons the opportunity to testify about matters to be addressed by the Plan.

(3) RELATIONSHIP TO EXISTING PLANS.—The Plan—

(A) shall recognize any existing Federal, State, and local plans;

(B) shall not interfere with the implementation, administration, or amendment of such plans; and

(C) to the extent feasible, shall seek to coordinate the plans and present a unified interpretation plan for the Area.

(b) REVIEW OF PLAN.—

(1) IN GENERAL.—The Commission shall submit the Plan to the Governor for his review.

(2) GOVERNOR.—The Governor may review the Plan and if he concurs in the Plan, may submit the Plan to the Secretary, together with any recommendations.

(3) SECRETARY.—The Secretary shall approve or disapprove the Plan within 90 days. In reviewing the Plan, the Secretary shall consider the adequacy of—

(A) public participation;

(B) the Plan in interpreting, for the educational and inspirational benefit of present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area;

(c) DISAPPROVAL OF PLAN.—

(1) NOTIFICATION BY SECRETARY.—If the Secretary disapproves the Plan, the Secretary shall, not later than 60 days after the date of disapproval, advise the Governor and the Commission of the reasons for disapproval, together with recommendations for revision.

(2) REVISION AND RESUBMISSION TO GOVERNOR.—Not later than 90 days after receipt of the notice of disapproval, the Commission shall revise and resubmit the Plan to the Governor for review.

(3) RESUBMISSION TO SECRETARY.—If the Governor concurs in the revised Plan, he may submit the revised plan to the Secretary who shall approve or disapprove the revision within 60 days. If the Governor does not concur in the revised plan, he may resubmit it to the Commission together with his recommendations for further consideration and modification.

(d) IMPLEMENTATION OF PLAN.—After approval by the Secretary, the Commission shall implement and support the Plan as follows:

(1) CULTURAL RESOURCES.—

(A) IN GENERAL.—The Commission shall assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Area.

(B) EXCEPTION.—In providing the assistance, the Commission shall in no way infringe upon the authorities and policies of a Federal agency, State

agency, or political subdivision of the State concerning the administration and management of property, water, or water rights held by such agency, political subdivision, or private persons or entities, or affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Area.

(2) **PUBLIC AWARENESS.**—The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, recreational, architectural, and engineering structures in the Area, and the archaeological, geological, and cultural resources and sites in the Area—

(A) by encouraging private owners of identified structures, sites, and resources to adopt voluntary measures for the preservation of the identified structure, site, or resource; and

(B) by cooperating with Federal agencies, State agencies, and political subdivisions of the State in acquiring, on a willing seller basis, any identified structure, site, or resource which the Commission, with the concurrence of the Governor, determines should be acquired and held by an agency of the State.

(3) **RESTORATION.**—The Commission may assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the restoration of any identified structure or site in the Area with consent of the owner. The assistance may include providing technical assistance for historic preservation, revitalization, and enhancement efforts.

(4) **INTERPRETATION.**—The Commission shall assist in the interpretation of the historical, present, and future uses of the Area—

(A) by consulting with the Secretary will respect to the implementation of the Secretary's duties under section 11;

(B) by assisting the State and political subdivisions of the State in establishing and maintaining visitor orientation centers and other interpretive exhibits within the Area;

(C) by encouraging voluntary cooperation and coordination, with respect to ongoing interpretive services in the Area, among Federal agencies, State agencies, political subdivisions of the State, nonprofit organizations, and private citizens, and

(D) by encouraging Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations to undertake new interpretive initiatives with respect to the Area.

(5) **RECOGNITION.**—The Commission shall assist establishing recognition for the Area by actively promoting the cultural, historical, natural, and recreational resources of the Area on a community, regional, national, and international basis.

(6) **LAND EXCHANGES.**—The Commission shall assist in identifying and implementing land exchanges within the State of Colorado by Federal and State agencies that will expand open space and recreational opportunities within the flood plain of the Area.

SEC. 10. TERMINATION OF THE COMMISSION.

(a) **TERMINATION.**—Except as provided in subsection (b), the Commission shall terminate 5 years after the date of approval of the Plan by the Secretary.

(b) **EXTENSION.**—The Commission may be extended for a period of not more than 5 years from the date of termination established in subsection (a), if, not later than 180 days before that date—

(1) the Commission determines that an extension is necessary in order to carry out this Act;

(2) the Commission submits a proposed extension to the—

(A) Governor;

(B) Committee on Resources of the House of Representatives;

(C) Committee on Energy and Natural Resources of the Senate; and

(D) Secretary of Agriculture;

(3) the Governor notifies the Secretary that he concurs in the extension, and

(4) the Secretary approves the extension.

SEC. 11. DUTIES OF THE SECRETARY.

(a) **ACQUISITION OF LAND.**—The Secretary may acquire land and interests in land within the Area that have been specifically identified by the Commission for acquisition by the federal government and that have been approved for such acquisition by the Governor and the political subdivision of the State where the land is located by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if such lands cannot be acquired by donation or ex-

change. No land or interest in land may be acquired without the consent of the owner.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan pursuant to section 9.

(c) DETAIL.—Each fiscal year during the existence of the Commission, the Secretary shall detail to the Commission, on a non reimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 8.

SEC. 12. OTHER FEDERAL ENTITIES.

(a) DUTIES.—Subject to section 13, a Federal entity conducting or supporting activities directly affecting the flow of the Cache La Poudre River through the Area, or the natural resources of the Area shall consult with the Commission with respect to such activities;

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Administrator of a Federal agency may acquire land in the flood plain of the Area by exchange for other lands within such agency's jurisdiction within the State of Colorado, based on fair market value: *Provided*, That such lands have been identified by the Commission for acquisition by a federal agency and the Governor and the political subdivision of the State or the owner where the lands are located concur in the exchange. Land so acquired shall be used to fulfill the purpose for which the Area is established.

(2) AUTHORIZATION TO CONVEY PROPERTY.—The first sentence of section 203(k)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(3)) is amended by striking "historic monument, for the benefit of the public" and inserting "historic monument or any such property within the State of Colorado for the Cache La Poudre River National Water Heritage Area, for the benefit of the public".

SEC. 13. EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS, RESTRICTIONS, AND SAVINGS PROVISIONS.

(a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—

(1) VOLUNTARY COOPERATION.—In carrying out this Act, the Commission and Secretary shall emphasize voluntary cooperation.

(2) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this Act shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Area not been established.

(3) ENVIRONMENTAL QUALITY STANDARDS.—Nothing in this Act shall be considered to impose the application or administration of any Federal or State environmental quality standard that is different from those that would be applicable had the Area not been established.

(4) WATER STANDARDS.—Nothing in this Act shall be considered to impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Area, that is more restrictive than those that would be applicable had the Area not been established.

(5) PERMITTING OF FACILITIES.—Nothing in the establishment of the Area shall abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for permitting of facilities within or adjacent to the Area.

(6) WATER FACILITIES.—Nothing in the establishment of the Area shall affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers.

(7) WATER AND WATER RIGHTS.—Nothing in the establishment of the Area shall be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

(b) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this Act shall be construed to vest in the Commission or the Secretary the authority to—

(1) require a Federal agency, State agency, political subdivision of the State, or private person to participate in a project or program carried out by the Commission or the Secretary under this Act;

(2) intervene as a party in an administrative or judicial proceeding concerning the application or enforcement of a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including, but not limited to, authority relating to—

- (A) land use regulation;
- (B) environmental quality;
- (C) licensing;
- (D) permitting;
- (E) easements;
- (F) private land development; or
- (G) other occupational or access issue;
- (3) establish or modify a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including authority relating to—
 - (A) land use regulation;
 - (B) environmental quality; or
 - (C) pipeline or utility crossings;
- (4) modify a policy of a Federal agency, State agency, or political subdivision of the State;
- (5) attest in any manner the authority and jurisdiction of the State with respect to the acquisition of lands or water, or interest in lands or water;
- (6) vest authority to reserve or appropriate water or water rights in any entity for any purpose;
- (7) deny, condition, or restrict the construction, repair, rehabilitation, or expansion of water facilities, including stormwater, water, and wastewater treatment facilities; or
- (8) deny, condition, or restrict the exercise of water rights in accordance with the substantive and procedural requirements of the laws of the State.
- (c) SAVINGS PROVISION.—Nothing in this Act shall diminish, enlarge, or modify a right of a Federal agency, State agency, or political subdivision of the State—
 - (1) to exercise civil and criminal jurisdiction within the Area; or
 - (2) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the urban river corridor portions of the Area.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—

(1) IN GENERAL.—There are authorized to be appropriated not to exceed \$250,000 to the Commission to carry out this Act.

(2) MATCHING FUNDS.—Funds may be made available pursuant to this section only to the extent they are matched by equivalent funds or in-kind contributions of services or materials from non-Federal sources.

PURPOSE OF THE MEASURE

The purpose of S. 342 is to establish the Cache La Poudre River National Water Heritage Area in Colorado. Establishment of the Cache La Poudre River National Water Heritage Area is intended to preserve and interpret the history of water development and river basin management in the westward expansion of the United States.

BACKGROUND AND NEED

With its headwaters in Rocky Mountain National Park, Cache La Poudre River flows through Poudre Canyon, exiting onto the Colorado high plains. There the river changes from a mountain river to a plains river of the semi-arid West. It meanders for approximately 40 miles through Larimer and Weld counties, joining the South Platte River near the city of Greeley. Along the river, stands of native cottonwood trees, willows and other riparian vegetation provide habitat for abundant wildlife. Fish populations are largely warm-water species, due to the river's low flow and other natural and human-modified characteristics.

The river has been important to humans for centuries. Arapahoe, Northern Cheyenne, and Sioux Indians relied on the river for water, as a hunting ground, and as a landmark. For those who followed over time—early European explorers, trappers, fur traders,

solders and settlers—the river remained a major source of water and food, and served as a transportation route, linking the plains to the mountains' gold and silver and the surrounding region.

Interest in creating opportunities for public and private stewardship and interpretation of the Poudre River has been evolving since the early 1970s. Local and Federal government, Colorado State University, and private citizens have been involved in these efforts. In a cooperative study by the Forest Service and the State of Colorado, the upper 74 miles of the Cache La Poudre River were comprehensively analyzed for possible inclusion in the Wild and Scenic Rivers System. The result was that 76 miles of the river were included in the system, 46 miles designated as "recreational," and 30 miles designated as "wild."

In 1988 the city of Fort Collins and Larimer County, with assistance from the Forest Service, contracted to conduct a feasibility study for designation of a segment of the lower Cache La Poudre as a National Recreation Area (NRA). The study concluded that NRA designation was feasible and presented three NRA alternatives with a management concept and a plan projecting recreational development, should NRA designation not occur. During the study, landowners expressed concern about the effects an NRA designation might have on their property (possible condemnation, vandalism, etc.).

The Fort Collins City Council endorsed the finding of the NRA study report, and expressed commitment to implementing some form of comprehensive river management program, either through an NRA designation or a reasonable alternative. It established a task force to determine if Federal legislation could be developed to address the local concerns regarding water quality and land use issues, and whether an appropriate Federal agency would be able and willing to cooperate with local interests in management the Cache La Poudre as an NRA. The task force recommended a National Heritage Corridor designation as an alternative to an NRA designation, with the National Park Service as the Federal partner.

In 1990 the city of Fort Collins requested the National Park Service to assess to the same corridor studies for NRA designation to determine the significance of its resources and those in the entire Poudre River Basin. The NPS developed the contextual theme, "The Cache La Poudre River Valley and the Development of the Colorado System of Water Allocation and its Impact upon Western Water Law." Using this context, the NPS determined that the basin possesses national significance.

LEGISLATIVE HISTORY

Senator Brown introduced S. 342 on February 7, 1995. The Subcommittee on Parks, Historic Preservation and Recreation held a hearing on the bill on November 9, 1995.

S. 1270, legislation to authorize a study of the Cache La Poudre basin, was considered during the 103rd Congress. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 1270 on March 23, 1994. No further action was taken on the bill.

At the business meeting on December 6, 1995, the Committee on Energy and Natural Resources ordered S. 342, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on December 6, 1995, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 342, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 342, the Committee adopted an amendment in the nature of a substitute. While acknowledging the significance of the Poudre River Basin, S. 342, as amended, makes clear that the Cache La Poudre River National Water Heritage Area will not be a new unit of the National Park System. The amendment reduces the size of the area to be included in the Cache La Poudre River National Water Heritage Area from over 1.2 million acres to less than 35,000 acres, and provides specific map references. The Commission is directed to convey any real property or interest in real property acquired by donation, exchange, or purchase from a willing seller with donated or bequeathed funds to an appropriate non-federal public agency.

The Secretary of the Interior's duties would include technical assistance and facilitating—with the concurrence of land owners and state and local officials—the acquisition of lands within the area on an exchange, donation, or willing seller basis to help fulfill the purpose for which the Area is created. All lands to be designated for exchange must be located within the State of Colorado and establishment of the heritage area will not affect any lands or interest in lands outside the State of Colorado.

Management of the heritage area will remain with area residents through non-federal public agencies. The heritage area designation is intended to assist city, county, and state officials and the public in developing and implementing policies to preserve and interpret the Poudre River's contributions to westward expansion of the Nation and regional development of the agriculture industry. The designation is intended to foster maintenance of urban open space, recreational opportunities, floodplain management, and wildlife habitat conservation.

The amendment is described in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title for the bill.

Section 2 states for the purpose of the Act is to interpret, for the educational and inspirational benefit of present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Cache La Poudre River Basin.

Section 3 defines certain terms used in the Act.

Section 4 establishes the Cache La Poudre River National Water Heritage Area (the "Area") in the State of Colorado. The section outlines the boundaries of the Area and provides map references. This section also directs the Secretary of the Interior (the "Secretary") to publish a detailed description and map as soon as practicable after enactment of this Act.

Section 5 establishes the Cache La Poudre River National Water Heritage Area Commission (the "Commission"), to be comprised of 15 persons, which, along with Federal, State and local authorities, will develop and implement an integrated plan to interpret elements of the history of water development within the Area.

Section 6 states that Commission will have the power to appoint and fix the compensation of such staff to carry out its duties. In addition, the Commission may request the services of personnel from Federal, State, or local agencies.

Section 7 outlines the powers of the Commission, including authorizing the Commission to hold hearings, receive evidence and take testimony necessary to implement this Act. The Commission is prohibited from issuing subpoenas or exercising subpoena authority. The section further states that the Commission may not acquire real property or interest in real property in the Area except by gift, purchase from willing seller with money given or bequeathed to the Commission, or by exchange. The Commission is directed to convey any real property or interest in real property to an appropriate non-federal public agency. The Commission may enter into cooperative agreements with other agencies and individuals to carry out the plan noted in section 8.

Section 8 states that the Commission shall prepare, obtain approval for, implement, and support the plan explained in section 9. This section also directs the Commission to provide an annual report concerning its activities to the Governor and the Secretary.

Section 9 directs the Commission to submit to the Governor a Water Heritage Area Interpretation Plan based on consultation with appropriate Federal, State and local officials, and testimony from public hearings. The plan is to be submitted within 2 years of enactment of this Act. After review and approval, the Governor is to submit the plan to the Secretary for approval within 60 days of receipt. The section directs that after approval by the Secretary, the Commission will implement and support the Plan by assisting Federal agencies, State agencies, and political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Area. In providing the assistance, however, the Commission may in no way infringe upon an agency's authority or policy regarding the management of property, water, or water rights held by that agency. Additionally, the Commission may not affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Area.

Section 10 states that the Commission will terminate 5 years after the date of approval of the Plan by the Secretary. The Commission may be extended for a period up to 5 years from the date of termination established if the Commission determines that an extension is necessary to carry out the provisions of this Act. Upon such determination, the Commission must submit a proposed extension to the Governor, the appropriate authorizing committees of the United States Senate and House of Representatives, and the Secretary of Agriculture. The Secretary may approve the extension upon concurrence of the Governor.

Section 11 states that the Secretary may acquire land and interests in land within the Area that have been specifically identified by the Commission for acquisition by the Federal government and

that have been approved for such acquisition by the Governor and the political subdivision of the State where the land is located. Acquisition may be by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if such lands cannot be acquired by donation or exchange. No land or interest in land may be acquired without the consent of the owner.

Section 12 authorizes the Secretary or Administrator of a Federal agency to acquire land in the flood plain of the Area by exchange for other lands within such agency's jurisdiction within the State of Colorado, based on fair market value.

Section 13 outlines the effect of the Act on environmental and other standards, restrictions, and savings provisions. The Commission and Secretary are directed to emphasize voluntary cooperation in carrying out this Act. Nothing in this Act shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Area not been established.

Nothing in this Act should be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

Section 14 authorizes an appropriation not to exceed \$250,000 to the Commission to carry out this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 13, 1995.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 342, the Cache La Poudre River National Water Heritage Area Act, as ordered reported by the Senate Committee on Energy and Natural Resources on December 6, 1995. Assuming appropriation of the necessary amounts, we estimate that implementation of this bill would cost the federal government about \$1.7 million over the next five years. Because S. 342 also may affect direct spending and receipts, pay-as-you-go procedures would apply.

S. 342 would establish a 35,000-acre area in Colorado as the Cache La Poudre River National Water Heritage Area. Section 5 of the bill would create a 15-member commission to develop and implement a plan for interpreting the history of water development in the designated area. The new commission would be authorized to:

- accept and use donations of property or funds;
- acquire real property by donation, exchange or purchase with donated funds for transfer to appropriate nonfederal agencies; and

enter into cooperative agreements with public or private groups for purposes of carrying out the interpretive plan.

In carrying out its duties, the commission would be allowed to hire and pay employees and accept (on a reimbursable basis) personnel of federal agencies and administrative support services from the General Services Administration.

S. 342 would require the commission to submit the interpretive plan to the governor of Colorado within two years of its first meeting. The governor would review the plan and submit it to Secretary of the Interior, who would then have 90 days to approve or disapprove it. Once a plan has been finalized and approved, the commission would implement it, primarily by assisting federal, state, and local agencies in developing cultural resources, restoring historical structures, and enhancing public awareness. The commission would terminate five years after the plan has been approved by the Secretary.

In addition to requiring the Secretary of the Interior to approve the commission plan, the bill would provide for limited federal participation in developing the heritage area, including authority to purchase land (if the commission cannot obtain it by donation or exchange) and to provide technical assistance in preparing and implementing the plan. Also, the bill would direct the Secretary to detail to the commission (without reimbursement) two department employees for each fiscal year that the commission exists.

Finally, section 14 of the bill would authorize the appropriation of up to \$250,000 to the commission for carrying out the legislation, provided that appropriated amounts are matched by funds or in-kind contributions from nonfederal sources.

Assuming appropriation of the authorized amounts, CBO estimates that the commission would spend \$250,000 over the 1996–2000 period, after which the commission would be terminated. Most of this amount would be spent during the first two or three years on developing the interpretive plan for the heritage area. Additional spending by the Department of the Interior would be about \$200,000 in 1996, and about \$300,000 annually for 1997 through 2000, assuming appropriation of the necessary sums. Most of these amounts would cover the costs of providing technical assistance and employees to the commission. Although the bill would authorize the department to purchase land with appropriated funds, we expect that federal acquisition of lands within the heritage area, if any, would be minimal.

The commission might receive contributions under the provisions of section 7, which would authorize the acceptance and use of donations, but such receipts would probably be small and would be offset by additional spending. Therefore, CBO estimates that no significant direct spending or receipts would result from enactment of this legislation.

S. 342 would require no additional expenditures on the part of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis, and for state and local impacts, Marjorie Miller.

Sincerely,

JUNE E. O'NEILL, *Director*.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 342. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 342, as ordered reported.

EXECUTIVE COMMUNICATIONS

The Committee on Energy and Natural Resources has requested legislative reports from the Department of the Interior, Department of Agriculture and the Office of Management and Budget setting forth Executive Agency recommendations on S. 342, as amended. These reports had not been received at the time the report on S. 342 was filed. When these reports become available, the Chairman will request that they be printed in the Congressional Record for the Advice of the Senate. The testimony provided by the Department of the Interior and the Department of Agriculture follow:

TESTIMONY OF DENIS P. GALVIN, ASSOCIATE DIRECTOR FOR
PROFESSIONAL SERVICES, NATIONAL PARK SERVICE, DE-
PARTMENT OF THE INTERIOR

Mr. Chairman, it is a pleasure to be here today to discuss several bills that will benefit Rocky Mountain National Park and Walnut Canyon National Monument. I also am pleased to be here to testify on a bill that would create the New Bedford Whaling National Historic Park in New Bedford, Massachusetts.

The Administration supports S. 364, S. 509, S. 231, H.R. 562, and S. 608. Although we believe that S. 342 may have merit, we prefer this legislation be deferred until further study has been completed.

I will address each bill separately beginning with the three bills affecting Rocky Mountain National Park.

* * * * *

S. 342, CACHE LA POUDE RIVER NATIONAL WATER HERITAGE
AREA IN COLORADO

S. 342 would establish the Cache La Poudre National Water Heritage Area in the State of Colorado. A great deal of work already has been completed by various local communities toward establishing the Cache La Poudre National Water Heritage Area, resulting in valuable information that can serve as a foundation to address the criteria proposed in the generic national heritage area system legislation pending in the House and in the Senate. Until this proposal meets those criteria, however, we recommend that the Committee defer final action on this proposal.

Earlier in this Congress the National Park Service testified on H.R. 1280 and H.R. 1301, proposals to establish a national heritage area system. A hearing on a similar Senate bill, S. 1110, is scheduled for early November. These three bills are similar in their approach for determining whether an area is eligible for heritage area designation. All these bills would require that an entity requesting National Heritage Area designation for an area undertake a feasibility study to determine the significance of the area, the integrity of the resources, the public support for the heritage area, the proposed boundary, and the possible management entity for the area. Once the feasibility study has been completed, the entity would prepare a draft compact and submit both the feasibility study and compact to the Secretary for approval. A compact would detail the boundaries of the heritage area, the goals and objectives of the heritage area, an identification of the heritage area's management entity, the initial partners to be involved, and a description of the role of the state or states in the heritage area. If the Secretary approves the feasibility study and the compact, the Secretary would submit to the Congress the study and compact together with any recommendations. After an area is designated by an Act of Congress, the management entities would be required to develop an implementation plan to carry out the goals and objectives outlined in the compact. The management entity would also be responsible for implementing the plan.

It is with this process in mind that we have reviewed S. 342. We believe that the uniformity of a national program regarding designation and implementation should be brought into play as we set out to create heritage areas across the country. In particular, we believe that the very nature of heritage areas require a local initiative and responsibility for determining the appropriate management entity. Consequently, we recommend that S. 342 be amended to remove the establishment of a federally chartered commission that serves as a management entity. We should also note that this commission could raise Appointments Clause problems.

The NPS believes the instant designation of the Cache La Poudre National Water Heritage Area is premature. Only limited resource assessments of the area have been completed and no feasibility studies have been prepared. The bill increases the numbers, responsibilities, and commitments of federal staff at a time when we are trying to reduce the overall numbers of federal employees.

Interest in creating opportunities for public and private stewardship and interpretation of the Cache La Poudre River has been evolving since the 1970's. The federal government, various local governments, Colorado State University, and private citizens have been involved in these efforts. Several evaluations and local community efforts have examined creative ways to protect and enhance important natural and cultural resources associated with the

river and western water law development in this north-eastern section of the state. We recognize and applaud the long-standing local support and commitment of everyone in the Cache La Poudre River Basin for their work toward establishing a national heritage area.

This is the third Congress to consider legislation to establish a Cache La Poudre Heritage Area—an indication of ongoing support. Because interest is strong and earlier evaluations of resources demonstrate that the idea has value, we believe refinement of this work using a set of national criteria and guidelines has merit. We recommend that the National Park Service participate in this process with the local communities and that compact negotiations be completed before Congress takes further action on designating this heritage area.

STATEMENT OF MARK REIMERS, DEPUTY CHIEF, PROGRAMS
AND LEGISLATION, FOREST SERVICE, U.S. DEPARTMENT
OF AGRICULTURE

Mr. Chairman and Members of the subcommittee: Thank you for the opportunity to provide the Subcommittee with the views of the Department of Agriculture regarding three of the bills being considered today.

S. 231 AND H.R. 562, MODIFY THE BOUNDARIES OF WALNUT
CANYON NATIONAL MONUMENT

S. 231 and H.R. 562 are similar to legislation passed by the House in the 103rd Congress and we would not object to enactment of these bills if amended with a technical amendment as suggested herein to the Senate bill.

S. 231 and H.R. 562 would provide for the expansion of Walnut Canyon National Monument. Walnut Canyon is approximately 5 miles east of Flagstaff, Arizona, and is surrounded by National Forest System lands administered by the Peaks Ranger District, Coconino National Forest. The canyon is approximately 15 miles long, from Lake Mary to Interstate 40. About 20 percent of the canyon, or approximately 2,300 acres, is designated as the Walnut Canyon National Monument and administered by the National Park Service, Department of the Interior.

S. 231 and H.R. 562 would add approximately 1,239 acres of National Forest System lands to the Walnut Canyon National Monument. These lands include the area surrounding an archeological site known as "Fifth Fort" located west of the present monument. This area is a deep section of the canyon with steep slopes; covered with mixed conifers, shrubs and willows in the canyon bottom; and ponderosa pine along the rim. Very little human activity has occurred along the sides or bottom of this section. A variety of plant species and wildlife occur here, including sensitive plant and bird species.

The proposed addition also includes an area east of the existing monument, surrounding the archeological site

known as "First Fort." This area is a shallow and wider section of the canyon with mixed conifers on the slopes, and pinyon and juniper trees and grass openings on the rim.

Forest Service management activities in the areas proposed for addition to the monument have been aimed at providing a semi-primitive recreational experience; providing environmental education; protecting nearby residences from wildfire through prevention and suppression activities; and maintaining and enhancing self-sustaining populations of game and non-game wildlife species, including threatened and endangered species. These management activities recognize the unique scenic and recreational values of the area.

We are currently working on local partnerships with Federal and State agencies and the community of Flagstaff to manage the entire Walnut Canyon area for the long-term sustainability of the canyon ecosystem and the protection of its cultural resources. The expansion proposed under S. 231 and H.R. 562, along with our efforts on adjacent lands, will maintain Walnut Canyon's values over the long run.

There are portions of four grazing allotments affected by the expansion proposal. The effect of the reduced acreage on these allotments is negligible. The grazing capacity on the allotments will be examined in a future study which will address any need for adjustments.

Two parcels are proposed for deletion from the monument and transfer to the Forest Service to simplify administration. These include a 1-mile sliver of land along Forest Road 303, which was included in the monument by an earlier survey error; and a 40-acre area set aside for a borrow pit under Public Land Order 1269 which was never used for that purpose and is not contiguous to the monument.

In order to allow for technical corrections to the map referenced in section 3, we suggest the addition of the following language at the end of the section in S. 231:

The Secretary of the Interior, in consultation with the Secretary of Agriculture, may correct clerical and typographical errors in such map.

S. 342, ESTABLISH THE CACHE LA POUDE RIVER NATIONAL
WATER HERITAGE AREA IN THE STATE OF COLORADO

S. 342 would create a heritage area on approximately 1.1 million acres of land within the Cache La Poudre Watershed. Approximately 35 percent of that acreage is composed of lands managed by the Arapho-Roosevelt National Forest of the USDA Forest Service.

The proposed legislation has no direct effect on the management of the National Forest System but simply provides a new format for continued public and governmental coordination within the Heritage Area. We recognize the long-standing local support and commitment of local gov-

ernments, Colorado State University, and the private citizens in the Cache La Poudre River Basin for their work toward establishing a national heritage area.

We defer to the Department of the Interior with regards to the technical review of the proposed legislation and the relationship of this legislation to the legislation to establish a Heritage Areas Partnership Program.

CONCLUSION

In conclusion, Mr. Chairman, we do not object to enactment of the S. 231 and H.R. 562. We defer to the Department of Interior on S. 342. I will be pleased to answer the Subcommittee's questions concerning the bills.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act, S. 342, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Public Law 81-152 (40 U.S.C. 484(k)(3))

AN ACT To simplify the procurement, utilization and disposal of Government property, to reorganize certain agencies of the Government, and for other purposes

* * * * *

(k) Disposals by Secretary of Education, Secretary of Health and Human Services, Secretary of the Interior, and Secretary of Defense

* * * * *

(3) Without monetary consideration to the United States, the Administrator may convey to any State, political subdivision, instrumentalities thereof, or municipality, all of the right, title, and interest of the United States in and to any surplus real and related personal property which the Secretary of the Interior has determined is suitable and desirable for use as a [historic monument, for the benefit of the public] *historic monument or any such property within the State of Colorado for the Cache La Poudre River National Water Heritage Area, for the benefit of the public.* No property shall be determined to be suitable or desirable for use as a historic monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments established by section 463 of title 16, and only so much of any property shall be so determined to be suitable or desirable for which such use as is necessary for the preservation and proper observation of its historic features.

* * * * *